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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

GABRIEL HILARIO ALCARAZ )  
 MARTINEZ, CHRISTIAN FIDAL )  
 ARECHIGA TORRES and RAMON )  
 ALEJANDRO HERNANDEZ GARCIA, )  
 Plaintiffs, )  
 vs. )  
 THOMAS F. WHITE, )  
 Defendant. )

Case No. C-06-1595-CRB

DECLARATION OF DAVID  
 REPLOGLE IN OPPOSITION  
 TO MOTION TO QUASH SERVICE  
 OF SUMMONS AND COMPLAINT

I, David Replogle, declare and state:

1. I am an attorney licensed to practice before all courts of the State of California, a member of the bar of this Court, and the sole shareholder of the Law Offices of David Replogle, a Professional Corporation, attorneys for Plaintiffs in the above-captioned action. The following facts are known to me personally and if called as a witness I could, and would, testify competently thereto.

2. On March 11, 2006, I personally went to the state prison near Puerto Vallarta, Mexico to serve defendant Thomas F. White with a copy of the

1 summons and complaint. The guards at the reception area do not wear  
2 badges with either an identifying name or number. I have been told that the  
3 guards' anonymity is protected for their security and the security of their  
4 families.

5 3. I gave the copies of the summons and complaint to the guard  
6 in charge. When I asked for a name, they indicated that it was against policy  
7 to give a name and that I should just indicated that it was given to Mr. White  
8 through the "Aduana de Personas." They assured me that they would make  
9 sure Mr. White received the papers.

10 4. As any visitor to any Spanish speaking country is aware,  
11 "aduana" is the same name used for customs when being screened before entry  
12 into the country. Since Mr. Rotwein has been to Puerto Vallarta at least 2  
13 times to see his client, I am sure that he did not miss the large "aduana" signs  
14 at the airport.

15 5. After Mr. White was served, Mr. Rotwein requested that I  
16 transmit to him by facsimile a copy of the certificate of service. After I sent  
17 Mr. Rotwein a copy of the certificate of service, he called and asked who  
18 "aduana de personas" was. I thought he was kidding it was such an absurd  
19 question. I jokingly explained to him that "aduana" was not, in fact, Spanish  
20 for "Edith." I told him that "aduana" was the same name as that used for  
21 border customs and that it was the name of the office through which all  
22 persons and packages had to pass in order to gain access to a prisoner.

23 6. After the conversation described above, Mr. Rotwein filed a  
24 motion suggesting that I was asserting that "aduana" was a live person and not  
25 the office through which persons and documents were required to pass.

26 7. White has never denied that he received the summons and  
27 complaint pursuant to the March 11, 2006 service.  
28



**PROOF OF ELECTRONIC SERVICE**

I declare under penalty of perjury that the foregoing is true and correct:

I am a citizen of the United States over the age of eighteen years, employed in the City and County of San Francisco, California, and not a party to the within entitled cause; my business address is 550 Montgomery Street, Suite 550, San Francisco, California.

On May 12, 2006 I served the following:

**DECLARATION IN OPPOSITION TO MOTION TO QUASH**

on the interested party(ies) in said cause, by causing an electronic delivery subject to 28 U.S.C. § 1746, Locals Rules or General Orders of this Court regarding Electronic Case Filing. All pleadings and papers must be electronically served in accordance with those Rules or General Orders.

Geoffrey Rotwein  
400 Montgomery St., Ste. 200  
San Francisco, CA 94104  
E-mail: geoffrotwein@sbcglobal.net

Attorneys for Defendant  
Thomas F. White

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on May 12, 2006 at San Francisco, California.

*David Replogle*

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DAVID REPLOGLE